

**FILED**

**MAR 29 2006**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

ZAKARIAH LAFRENIERE,

Plaintiff - Appellant,

v.

REGENTS OF THE UNIVERSITY OF  
CALIFORNIA,

Defendant - Appellee.

No. 05-15960

D.C. No. CV-04-05308-CRB

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Northern District of California  
Charles R. Breyer, District Judge, Presiding

Submitted March 8, 2006<sup>\*\*</sup>

Before: CANBY, BEEZER, and KOZINSKI, Circuit Judges.

Zakariah LaFreniere appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1981 action alleging he suffered racial discrimination when the Regents of the University of California blocked his registration. We

---

<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Int’l Union of Operating Eng’rs v. Karr*, 994 F.2d 1426, 1429 (9th Cir. 1993), and we reverse and remand.

The district court improperly dismissed on the basis of res judicata, because this action does not arise out of the same transactional nucleus of facts as case No. 04-4369 MJJ (N. D. Cal.), which challenged the University’s elimination of its admissions policy based on racial quotas, and its alleged retaliatory termination of LaFreniere’s employment. *See id.* (“Whether two events are part of the same transaction or series depends on whether they are related to the same set of facts and whether they could conveniently be tried together.”).

Moreover, the district court’s application of the statute of limitations fails to account for the events LaFreniere alleged occurred in 2004, the same year the instant action was filed.

LaFreniere’s motion to strike his first brief to this court is granted.

**REVERSED and REMANDED.**